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June 2, 1999

BY FACSIMILE

The Honorable Jacob J. Lew
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Lew:

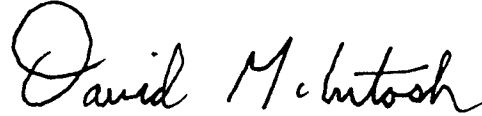
This letter responds to a May 7, 1999 letter from Acting Administrator Donald Arbuckle in response to my April 1st letter to you on the Office of Management and Budget's (OMB) March 30th "Guidance for Implementing the Congressional Review Act." My April 1st letter reiterated the views expressed in the Subcommittee's March 29th meeting with OMB staff on OMB's statutorily-required, draft revised Congressional Review Act (CRA) guidance to the agencies; namely, that OMB's latest guidance is not responsive to Congressional expectations, our previous agreements, or Congressional intent for expanded and complete OMB guidance to be issued by March 31st.

Last Fall, we provided OMB with a draft guidance document that fully addressed the issue areas that were not reflected in OMB's guidance. We were surprised and disappointed that OMB's March 25th draft, revised guidance did not reflect the issue areas in our draft guidance document and expressed our dismay in the March 29th meeting. Now, to assure our common understanding before OMB issuance of another version of its guidance to the agencies, please provide the Subcommittee by June 18th with OMB's written:

- (1) elaboration of the definition of "rule" under CRA to include agency interpretive rules, policy statements, guidances, and other documents of general applicability and future effect that interpret, prescribe, or implement policy, regardless of whether such documents are represented to be legally "binding;"
- (2) discussion of the limitations of the "good cause" exemption for a change in the effective date of rules, including clarification that the exemption cannot be used for rules previously subject to notice and comment; and
- (3) discussion of the legal standing, effectiveness, and potential for judicial review of rules not submitted to Congress pursuant to section 801(a)(1).

If you have any questions about this letter, please contact Professional Staff Member Barbara Kahlow at 225-4407.

Sincerely,

A handwritten signature in black ink that reads "David M. McIntosh". The signature is written in a cursive style with a large, looped initial "D".

David M. McIntosh

Chairman

Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable Dennis Kucinich
The Honorable Jim Kolbe